

# Sumter City-County Board of Zoning Appeals

July 13, 2011

## **BOA-11-12, 4128 & 4130 Patriot Parkway (County)**

The applicant is requesting a variance from the minimum lot size requirement per Article 3 Section 3.n.5.a Development Standards for AC zoning district in order to divide a parcel.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

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## BOA-11-12, 4128 & 4130 Patriot Parkway (County)

### I. THE REQUEST

**Applicants:** Luther Bells Jr.

**Status of the Applicants:** Applicant for Theresa Davis, Property Owner

**Request:** A variance from the minimum lot size requirement per Article 3 Section 3.n.5.a Development Standards for AC zoning district in order to divide a parcel.

**Location:** 4128 & 4130 Patriot Parkway

**Present Use/Zoning:** Residence / Agricultural Conservation (AC)

**Tax Map Reference:** 156-14-02-003

### II. BACKGROUND

The applicant is requesting a variance from the minimum lot size specifications for the AC zoning district so that the parcel can be subdivided into two parcels. There are currently two homes on the parcel. In order to reduce confusion and create clear titles to both properties, it is necessary that they be divided.



*Left: Aerial view of parcel and layout of existing home, showing possible division of parcel in half with easement.*



*(Above) the home in front is # 4130 Patriot Parkway, with #4128 in the rear left of this photo.*

This application refers to +/- 0.84 acre piece of property in the Agricultural Conservation (AC) zoning district that currently has two houses located on it. The Sumter County Zoning Ordinance, Article 3 Section 3.n.5.a requires that parcels in the AC district have a minimum lot size of 1 acre. However the proposed division of parcels will leave each parcel +/- 0.42 acres in size due to constraints of the property, such as the location of the existing homes.

Granting this variance will allow each structure to be located on its own separate parcel, which creates a situation more in conformance with the zoning ordinance. The divided parcels will each be +/- 0.42 acres if approval is given. Setbacks for the AC zoning district can be met if this division is made. The owner of the property, Theresa B. Davis, wants to convey the back portion of the parcel to her brother, Luther Bells Jr., by lifetime family transfer. The family relationship allowing conveyance from sibling to sibling has already been approved by Planning Commission with SV-11-07, approved on June 22, 2011.

### **III. FOUR-PART TEST**

**1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

This parcel is already developed with two existing homes, one the residence of the owner, and the other the residence of her brother, the applicant.

**2. *These conditions do not generally apply to other property in the vicinity.***

The surrounding homes appear to each be situated on their own separate parcels.

3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Application of the ordinance does limit the utilization of this property. Without this variance, the property owners cannot subdivide the property and obtain clear titles to the individual parcels.

4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

The authorization of a variance will not substantially impact adjacent properties or the public good, or harm the character of the district. This is an established residential area and the division of this property will not affect the surrounding homes at all.

#### **IV. STAFF RECOMMENDATION**

Staff recommends approval of BOA-11-12. The applicant has no alternative for subdividing the property other than to seek a variance.

#### **V. DRAFT MOTIONS for BOA-11-12**

- A. I move that the Zoning Board of Appeals approve BOA-11-12, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals deny BOA-11-12 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-12.

#### **VI. ZONING BOARD OF APPEALS – July 13, 2011**

The Sumter City-County Board of Appeals at its meeting on Wednesday, July 13, 2011, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions as shown on Exhibit 1.

**Exhibit 1**  
**Order on Variance Application**  
**Sumter Board of Appeals**

**BOA-11-12, Luther Bells Jr.**  
**4128 & 4130 Patriot Parkway**  
**July 13, 2011**

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Date Filed: July 13, 2011

Permit Case No. BOA-11-12

The Sumter Board of Appeals held a public hearing on Wednesday, July 13, 2011 to consider the appeal of Luther Bells, Jr, 4128 Patriot Parkway, Sumter SC for a variance from the strict application of the City Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

Current Zoning Ordinance standards do not allow development of two homes on one residential parcel. This would give each existing house its own lot and bring them into more conformity with the ordinance as far as number of dwellings per parcel.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

This parcel has two homes on it, and the adjacent properties appear to have one home per parcel. Therefore the conditions of this property are unique in this area.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Application of the Zoning Ordinance does limit the utilization of this property. Without this variance, the property owners cannot subdivide the property and obtain clear titles to the individual parcels.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the

district ☐ **will** – ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of a variance will not substantially impact adjacent properties or the public good, or harm the character of the district. This is an established residential area and the division of this property will not affect the surrounding homes at all. The authorization of a variance will allow the property to be divided in the best method available for the applicant.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**,  
**subject to the following conditions:**

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**